

Regular Session, 2010

HOUSE BILL NO. 255

BY REPRESENTATIVES WOOTON AND MILLS AND SENATOR MARTINY

PAROLE: Provides for technical revision of parole statutes

1 AN ACT

2 To amend and reenact R.S. 15:574.4 and to enact R.S. 15:574.4.1 through 574.4.3, relative
3 to parole; to provide for technical changes to the parole statutes; to direct the
4 Louisiana State Law Institute to redesignate the provisions of R.S. 15:574.4.1 and
5 574.4.2 as R.S. 15:574.4 and 574.4.5; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 15:574.4 is hereby amended and reenacted and R.S. 15:574.4.1
8 through 574.4.3 are hereby enacted to read as follows:

9 §574.4. Parole; eligibility; ~~consideration and hearings; decisions of board; nature,~~
10 ~~order, and conditions; rules of conduct; offenders convicted of crimes of~~
11 ~~violence; infectious disease testing~~

12 A.(1) Except as provided for in Subsection B of this Section, a person,
13 otherwise eligible for parole, convicted of a first felony offense shall be eligible for
14 parole consideration upon serving one-third of the sentence imposed, ~~upon~~ Upon
15 conviction of a second felony offense, such person shall be eligible for parole
16 consideration upon serving one-half of the sentence imposed. A person convicted
17 of a third or subsequent felony offense shall not be eligible for parole.

18 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection or any
19 other law to the contrary, unless eligible for parole at an earlier date, a person
20 committed to the Department of Public Safety and Corrections for a term or terms

1 of imprisonment with or without benefit of parole for thirty years or more shall be
2 eligible for parole consideration upon serving at least twenty years of the term or
3 terms of imprisonment in actual custody and upon reaching the age of forty-five.

4 This provision shall not apply to a person serving a life sentence unless the sentence
5 has been commuted to a fixed term of years. The provisions of this Paragraph shall
6 not apply to any person who has been convicted under the provisions of R.S. 14:64.

7 (3) Notwithstanding the provisions of Paragraph (A)(1) or (2) of this Section
8 or any other provision of law to the contrary, unless eligible for parole at an earlier
9 date, a person committed to the Department of Public Safety and Corrections serving
10 a life sentence for the production, manufacturing, distribution, or dispensing or
11 possessing with intent to produce, manufacture, or distribute heroin shall be eligible
12 for parole consideration upon serving at least fifteen years of imprisonment in actual
13 custody.

14 B. No person shall be eligible for parole consideration who has been
15 convicted of armed robbery and denied parole eligibility under the provisions of R.S.
16 14:64. No prisoner serving a life sentence shall be eligible for parole consideration
17 until his life sentence has been commuted to a fixed term of years. No prisoner
18 sentenced as a serial sexual offender shall be eligible for parole. No prisoner may
19 be paroled while there is pending against him any indictment or information for any
20 crime suspected of having been committed by him while a prisoner. Notwithstanding
21 any other provisions of law to the contrary, a person convicted of a crime of violence
22 and not otherwise ineligible for parole shall serve at least eighty-five percent of the
23 sentence imposed, before being eligible for parole. The victim or victim's family
24 shall be notified whenever the offender is to be released provided that the victim or
25 victim's family has completed a Louisiana victim notice and registration form as
26 provided in R.S. 46:1841 et seq., or has otherwise provided contact information and
27 has indicated to the Department of Public Safety and Corrections, Crime Victims
28 Services Bureau, that they desire such notification.

1 C.(1) At such intervals as it determines, the board or a member thereof shall
2 consider all pertinent information with respect to each prisoner eligible for parole,
3 including the nature and circumstances of the prisoner's offense, his prison records,
4 the presentence investigation report, any recommendations of the chief probation and
5 parole officer, and any information and reports of data supplied by the staff. A
6 parole hearing shall be held if, after such consideration, the board determines that a
7 parole hearing is appropriate or if such hearing is requested in writing by its staff.

8 (2)(a) In cases where the offender has been convicted of, or where
9 adjudication has been deferred or withheld for the perpetration or attempted
10 perpetration of a violation of a sex offense as defined in R.S. 15:541 and parole is
11 permitted by law and the offender is otherwise eligible, the board shall consider
12 reports, assessments, and clinical information, as available, including any testing and
13 recommendations by mental health professionals, as to all of the following:

14 (i) Whether the offender has successfully completed the sex offender
15 program.

16 (ii) Whether, in the expert's opinion, there is a likelihood that the offender
17 will or will not repeat the criminal conduct and that the offender will or will not be
18 a danger to society.

19 (b) The board shall render its decision ordering or denying the release of the
20 prisoner on parole only after considering this clinical evidence where such clinical
21 evidence is available.

22 §574.4.1. Parole consideration and hearings

23 ~~Ð: A.~~(1) The parole hearings shall be conducted in a formal manner in
24 accordance with the rules formulated by the board and with the provisions of this
25 Part. Before the parole of any prisoner is ordered, such prisoner shall appear before
26 and be interviewed by the board, except those incarcerated in parish prisons or parish
27 correctional centers, in which case one board member may conduct the interview.
28 The board may order a reconsideration of the case or a rehearing at any time.

1 (2) The crime victim or the victim's family, a victim advocacy group, and the
2 district attorney or his representatives, may appear before the Board of Parole by
3 means of telephone communication from the office of the local district attorney.

4 ~~E. B.~~ The board shall render its decision ordering or denying the release of
5 the prisoner on parole within thirty days after the hearing. A parole shall be ordered
6 only for the best interest of society, not as an award of clemency, and upon
7 determination by the board that there is reasonable probability that the prisoner is
8 able and willing to fulfill the obligations of a law-abiding citizen so that he can be
9 released without detriment to the community or to himself.

10 ~~F. C.~~ All paroles shall issue upon order of the board and each order of parole
11 shall recite the conditions thereof; provided, however, that before any prisoner is
12 released on parole he shall be provided with a certificate of parole that enumerates
13 the conditions of parole. These conditions shall be explained to the prisoner and the
14 prisoner shall agree in writing to such conditions.

15 ~~G. D.~~ The release date of the prisoner shall be fixed by the board, but such
16 date shall not be later than six months after the parole hearing or the most recent
17 reconsideration of the prisoner's case.

18 §574.4.2. Decisions of Board of Parole; nature, order, and conditions of parole;
19 rules of conduct; infectious disease testing

20 ~~H. A.~~(1) The Board of Parole may make rules for the conduct of persons
21 heretofore or hereafter granted parole. When a prisoner is released on parole, the
22 board shall require as a condition of his parole that he refrain from engaging in
23 criminal conduct.

24 ~~(2) In cases where the offender has been convicted of or where adjudication~~
25 ~~has been deferred or withheld for the perpetration or attempted perpetration of a~~
26 ~~violation of a sex offense as defined in R.S. 15:541, including criminal sexual~~
27 ~~offenders under the supervision and legal authority of the Department of Public~~
28 ~~Safety and Corrections pursuant to the terms and conditions of the interstate compact~~
29 ~~agreement provided for in R.S. 15:574.14, and parole is permitted by law and the~~

1 offender is otherwise eligible, and when the board releases an offender on parole, the
2 board shall order the offender to register as a sex offender and provide notification
3 in accordance with the provisions of R.S. 15:540 et seq.

4 ~~(3) The board shall mail notice within three days after it makes a decision~~
5 ~~to release a sexual offender, as enumerated and pursuant to the circumstances in~~
6 ~~Paragraph (2) of this Subsection, on parole. The notice shall contain the address~~
7 ~~where the defendant will reside, a statement that the offender will be released on~~
8 ~~parole, and the date he will be released and shall be mailed to the victim or the~~
9 ~~victim's parent or guardian if the victim or a relative was not present at the parole~~
10 ~~hearing of the offender, and the notice shall be sent to their last known address by~~
11 ~~registered or certified letter, unless the victim or relative has signed a written waiver~~
12 ~~of notification.~~

13 ~~(4)~~ (2) The board may also require, either at the time of his release on parole
14 or at any time while he remains on parole, that he conform to any of the following
15 conditions of parole which are appropriate to the circumstances of the particular
16 case:

17 (a) Report immediately to the division of probation and parole office,
18 Department of Public Safety and Corrections, which is listed on the face of the
19 certificate of parole.

20 (b) Remain within the limits fixed by the certificate of parole. If he has good
21 cause to leave these limits, he will obtain written permission from the parole officer
22 and the approval of the division of probation and parole before doing so.

23 (c) Between the first and fifth days of each month, until his final release, and
24 also on the final day of his parole, make a full and truthful written report upon the
25 form provided for that purpose and that he will take or mail his report to his parole
26 officer. He will report to the probation and parole officer when directed to do so.

27 (d) Avoid injurious or vicious habits and places of disreputable or harmful
28 character.

1 (e) Will not associate with persons known to be engaged in criminal
2 activities or with persons known to have been convicted of a felony, without written
3 permission of his parole officer.

4 (f) In all respects conduct himself honorably, work diligently at a lawful
5 occupation, and support his dependents, if any, to the best of his ability.

6 (g) Promptly and truthfully answer all inquiries directed to him by the
7 probation and parole officer.

8 (h) Live and remain at liberty and refrain from engaging in any type of
9 criminal conduct.

10 (i) Live and work at the places stated in his parole plan and not change
11 residence or employment until after he has permission to do so from his parole
12 officer.

13 (j) Shall not have in his possession or control any firearms or dangerous
14 weapons.

15 (k) Submit himself to available medical, psychiatric, mental health, or
16 substance abuse examination or treatment or both when deemed appropriate and
17 ordered to do so by the probation and parole officer.

18 (l) Waive extradition to the state of Louisiana from any jurisdiction in or
19 outside the United States where he may be found and also agree that he will not
20 contest any effort by any jurisdiction to return him to the state of Louisiana.

21 (m) Will be subject to visits by his parole officer at his home or place of
22 employment without prior notice.

23 (n) Such other specific conditions as are appropriate, stated directly and
24 without ambiguity so as to be understandable to a reasonable man.

25 (o) Defray the cost, or any portion thereof, of his parole supervision by
26 making payments to the Board of Parole in a sum and manner determined by the
27 board, based upon his ability to pay.

1 (p) Perform at least one hundred hours of unpaid community service work
2 during the period of parole supervision and, if unemployed, perform additional hours
3 as instructed by his supervising officers.

4 (q) Devote himself to an approved reading program at his cost if he is unable
5 to read the English language.

6 (r)(i) Agree to searches of his person, his property, his place of residence, his
7 vehicle, or his personal effects, or any or all of them, at any time, by the probation
8 officer or the parole officer assigned to him, with or without a warrant of arrest or
9 with or without a search warrant, when the probation officer or the parole officer has
10 reasonable suspicion to believe that the person who is on parole is engaged in or has
11 been engaged in criminal activity since his release on parole.

12 (ii) For those persons who have been convicted of a "sex offense" as defined
13 in R.S. 15:541, agree to searches of his person, his property, his place of residence,
14 his vehicle, or his personal effects, or any or all of them, at any time, by a law
15 enforcement officer, duly commissioned in the parish or municipality where the sex
16 offender resides or is domiciled, designated by his agency to supervise sex offenders,
17 with or without a warrant of arrest or with or without a search warrant, when the
18 officer has reasonable suspicion to believe that the person who is on parole is
19 engaged in or has been engaged in criminal activity for which the person has not
20 been charged or arrested while on parole.

21 ~~(5)~~ (3) No offender, who is the parent, stepparent, or has legal custody and
22 physical custody of the child who is the victim, shall be released on parole unless the
23 victim has received psychological counseling prior to the offender's release if the
24 offender is returning to the residence or community in which the child resides. Such
25 psychological counseling shall include an attempt by the health care provider to ease
26 the psychological impact upon the child of the notice required under Paragraph (2)
27 of this Subsection, including assisting the child in coping with potential insensitive
28 comments and actions by the child's neighbors and peers. The cost of such
29 counseling shall be paid by the offender.

1 ~~F. B.~~ At the time these written conditions are given, the board shall notify the
2 parolee that:

3 (1) If he is arrested while on parole, the board has the authority to place a
4 detainer against him which will in effect prevent him from making bail pending any
5 new charges against him; and

6 (2) Should his parole be revoked for any reason, good time earned prior to
7 parole and good time that would have been earned if parole had not been granted will
8 be forfeited, as required by R.S. 15:571.4.

9 ~~F. C.~~(1) When a victim of the crime for which parole is being considered has
10 suffered a direct pecuniary loss other than damage to or loss of property, the parole
11 board may impose as a condition of parole that restitutions to the victim be made.
12 When such a condition is imposed, the board shall take into account the defendant's
13 ability to pay and shall not revoke parole based upon this condition unless the
14 parolee has willfully failed to comply. When the victim's loss consists of damage to
15 or loss of property, the board shall impose as a condition of parole payment of
16 restitution, either in a lump sum or in monthly installments based on the earning
17 capacity and assets of the defendant. If the victim was paid for such property loss
18 or damage with monies from the Crime Victims Reparations Fund, the board shall
19 order the parolee to make such payments as reimbursement to the fund in the same
20 amount as was paid from the fund to the victim. This condition of parole shall
21 continue until such time as the restitution is paid or the parolee is discharged from
22 parole in accordance with R.S. 15:574.6.

23 (2) Nothing herein shall affect a victim's civil remedy except that funds
24 actually received shall be credited to any civil judgment arising out of the same
25 offense.

26 ~~K. D.~~ If the prisoner has not paid and is liable for any costs of court or costs
27 of the prosecution or proceeding in which he was convicted or any fine imposed as
28 a part of his sentence, the board of parole shall require as a condition of parole the

1 payment of such costs or fine, either in a lump sum or according to a schedule of
2 payments established by the board and based upon the prisoner's ability to pay.

3 ~~M. E.~~ Before the Board of Parole places a person on parole, the board shall
4 determine if he has a high school degree or its equivalent and, if he does not, the
5 board shall condition parole upon the parolee's enrolling in and attending an adult
6 education or reading program until he obtains a GED, or until he completes such
7 educational programs required by the board, and has attained a sixth grade reading
8 level, or until his term of parole expires, whichever occurs first. All costs shall be
9 paid by the parolee. If the board finds that there are no adult education or reading
10 programs in the parish in which the parolee is domiciled, the parolee is unable to
11 afford such a program, or attendance would create an undue hardship on the parolee,
12 the board may suspend this condition of parole. The provisions of this Subsection
13 shall not apply to those parolees who are mentally, physically, or by reason of age,
14 infirmity, dyslexia, or other such learning disorders, unable to participate.

15 ~~N. F.~~ The collection of the supervision fee imposed pursuant to Paragraph
16 (H)(15) of this Section shall be suspended upon the transfer of an offender to another
17 state for parole supervision in that state, pursuant to the interstate compact for ~~out-of~~
18 ~~state~~ out-of-state parolee supervision as provided in R.S. 15:574.14.

19 G.(1) Before placing a person on parole, the Board of Parole shall require
20 that person to submit to a test designed to determine whether he is infected with a
21 sexually transmitted disease, acquired immune deficiency syndrome (AIDS), the
22 human immunodeficiency virus (HIV), HIV-1 antibodies, or any other probable
23 causative agent of AIDS and viral hepatitis.

24 (2) The procedure or test shall be performed by a qualified physician or other
25 qualified person who shall notify the parolee of the test results.

26 (3) If the person tested under the provisions of this Subsection tests positive
27 for a sexually transmitted disease, AIDS, HIV, HIV-1 antibodies, or any other
28 probable causative agent of AIDS and viral hepatitis, he shall be referred to the
29 appropriate health care and support services. If the person tested positive, the

1 granting of the parole shall be conditioned upon the person seeking advice and
2 counseling from the appropriate health care and support services. Failure to seek or
3 follow that advice shall result in the revocation of that person's parole.

4 (4) The costs associated with this testing shall be paid by the person tested.

5 (5) The provisions of this Subsection shall not apply to inmates released
6 because of diminution of sentence under R.S. 15:571.3.

7 §574.4.3. Parole requirements for certain sex offenders

8 ~~Θ. A.~~(1) Before having a parole hearing for any offender who has been
9 convicted of a violation of a sex offense as defined in R.S. 15:541, when the law
10 permits parole consideration for that offense, and when according to law an offender
11 convicted of one of those offenses is otherwise eligible for parole, the board shall
12 give written notice of the date and time of the parole hearing at least three days prior
13 to the hearing to the victim or the victim's parent or guardian, unless the victim,
14 parent, or guardian has advised the board of parole in writing that such notification
15 is not desired.

16 (2) The victim or the victim's parent or guardian who desires to do so shall
17 be given a reasonable opportunity to attend the hearing and to be heard.

18 ~~P. B.~~ If a person who is otherwise eligible for intensive parole supervision
19 pursuant to R.S. 15:574.4.1, has been convicted of one of the sexual offenses
20 enumerated in ~~Paragraph (2) of Subsection H and Paragraph (1) of Subsection Θ~~ of
21 this Section and the intensive parole supervision is applicable to any of those
22 enumerated crimes, then ~~Subsections H and Θ of this~~ the provisions of this Section
23 shall apply.

24 ~~Θ. C.~~ If a person, who is otherwise eligible for diminution of sentence for
25 good behavior pursuant to R.S. 15:571.3, has been convicted of one of the sexual
26 offenses enumerated in ~~Paragraph (2) of Subsections H and Θ~~ of this Section and the
27 diminution of sentence for good behavior is applicable to any of those enumerated
28 crimes, then ~~Paragraphs (2) and (3) of Subsection H~~ the provisions of this Section
29 shall apply.

1 ~~R.(1) Before placing a person on parole, the Board of Parole shall require~~
2 ~~that person to submit to a test designed to determine whether he is infected with a~~
3 ~~sexually transmitted disease, acquired immune deficiency syndrome (AIDS), the~~
4 ~~human immunodeficiency virus (HIV), HIV-1 antibodies, or any other probable~~
5 ~~causative agent of AIDS, and viral hepatitis.~~

6 ~~(2) The procedure or test shall be performed by a qualified physician or other~~
7 ~~qualified person who shall notify the parolee of the test results.~~

8 ~~(3) If the person tested under the provisions of this Subsection tests positive~~
9 ~~for a sexually transmitted disease, AIDS, HIV, HIV-1 antibodies, or any other~~
10 ~~probable causative agent of AIDS, and viral hepatitis, he shall be referred to the~~
11 ~~appropriate health care and support services. If the person tested positive, the~~
12 ~~granting of the parole shall be conditioned upon the person seeking advice and~~
13 ~~counseling from the appropriate health care and support services. Failure to seek or~~
14 ~~follow that advice shall result in the revocation of that person's parole.~~

15 ~~(4) The costs associated with this testing shall be paid by the person tested.~~

16 ~~(5) The provisions of this Subsection shall not apply to inmates released~~
17 ~~because of diminution of sentence under R.S. 15:571.3.~~

18 D.(1) In cases where the offender has been convicted of or where
19 adjudication has been deferred or withheld for the perpetration or attempted
20 perpetration of a violation of a sex offense as defined in R.S. 15:541, including
21 criminal sexual offenders under the supervision and legal authority of the
22 Department of Public Safety and Corrections pursuant to the terms and conditions
23 of the interstate compact agreement provided for in R.S. 15:574.14, and parole is
24 permitted by law and the offender is otherwise eligible, and when the board releases
25 an offender on parole, the board shall order the offender to register as a sex offender
26 and provide notification in accordance with the provisions of R.S. 15:540 et seq.

27 (2) The board shall mail notice within three days after it makes a decision
28 to release a sexual offender, as enumerated and pursuant to the circumstances in
29 Paragraph (2) of this Subsection, on parole. The notice shall contain the address

1 where the defendant will reside, a statement that the offender will be released on
2 parole, and the date he will be released and shall be mailed to the victim or the
3 victim's parent or guardian if the victim or a relative was not present at the parole
4 hearing of the offender, and the notice shall be sent to their last known address by
5 registered or certified letter, unless the victim or relative has signed a written waiver
6 of notification.

7 ~~§. E.~~(1) In cases where parole is permitted by law and the offender is
8 otherwise eligible, the Board of Parole shall not grant parole to any sex offender
9 either by an order of the Board of Parole or office of adult services pursuant to R.S.
10 15:571.3 until the Department of Public Safety and Corrections, division of
11 probation and parole, has assessed and approved the suitability of the residence plan
12 of such offender. In approving the residence plan of the offender, the department
13 shall consider the likelihood that the offender will be able to comply with all of the
14 conditions of his parole.

15 (2) For purposes of this ~~Subsection~~ Section, "sex offender" shall mean any
16 offender who has been convicted of, or where adjudication has been deferred or
17 withheld for, the perpetration or attempted perpetration of a violation of a sex
18 offense as defined in R.S. 15:541.

19 Section 2. The Louisiana State Law Institute is hereby directed to redesignate and
20 renumber the provisions of R.S. 15:574.4.1 as R.S. 15:574.4.4 and R.S. 15:574.4.2 as R.S.
21 15:574.4.5.

22 Section 3. The Louisiana State Law Institute is further directed to make technical
23 changes to statutory laws as necessary to reflect the statutory redesignation required by this
24 Act.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Wooton

HB No. 255

Abstract: Redesignates provisions of parole statutes.

Present law provides for parole eligibility and parole board hearings and procedures.

Proposed law retains all substantive provisions of present law and divides present law provisions into parole eligibility; parole consideration and hearings; decisions of Board of Parole; and parole conditions for certain sex offenders.

Directs the LSLI to redesignate and renumber the provisions of R.S. 15:574.4.1 as R.S. 15:574.4.4 and R.S. 15:574.4.2 as R.S. 15:574.4.5.

(Amends R.S. 15:574.4; Adds R.S. 15:574.4.1-574.4.3)